1949. File No. ~~Co-op~~ Co-op II/49 (N)

P19F Legal Deptt.

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B BRANCH

Subject:— Notifications under the Bombay Co-operative Societies Act 1925.

File No. Co-op II/49

Gen. 194

311-B

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O R D E R.

Revenue Department.

Bombay Castle, March 1949.

Bombay Co.operative Societies Act, 1925.

No. In exercise of the powers conferred by section 67 of the Bombay Co-operative Societies Act, 1925, (Bom.VII of 1925), the Government of Bombay is pleased to direct that the provisions of section 12,13,14,15, 15A, 16,18 and 53 of the said Act and rules 5,6,6A 7,12, 14 and 38 of the Bombay Co-operative Socieites Rules, 1927, in their application to the Poorva Panch Mahals Co-operatiee Banking Union (hereinfafter referred to as the said society), shall be subject to the following modifications, namely:-

(i) A general meeting or a special general meeting of the members referred to in the said provisions shall be a meeting of the delegates elected in the manner specified in clause (ii) and with reference to such meeting such delegates shall exercise all the powers and perform all the duties of the members.

(ii) For the purposes of clause (i),

(a) The said society shall divide the area of its operation into a suitable number of divisions according to the strength of members from such divisions; and

(b) The members from each such division shall elect such number of delegates at such times and in accordance with such procedure as may be prescribed in the by-laws of the said society.

(iii) Notwithstanding anything contained in clauses (i) and (ii), for the purpose of making by laws referred to in clause (ii), a general meeting of the said society shall be held as if the sections and rules aforesaid had not been modified.

By order of the Governor of Bombay.
Secretary to Government.

E.K.N.8/6/56- GC

Legal Department.

The view taken by the R.D. in para 4 of its note is not correct. Sub-section (2) of section 16 of the Bombay Co-operative Societies Act, 1925, provides that if the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act, or to the rules, he may register the amendment. The by-law proposed by the Poorva Pach Mahals Co-operative Banking Union at p. 23 ante is certainly not consistent with sections 12 and 18 of the Act. In order that the by-law may be valid it is necessary first, as observed in H.L.A's opinion No. 100027, dt.15.11.1940, to provide for modification of all the provisions of the Act and rules which refer to general or special general meetings. After such modification comes into force, the Society will be competent to make theproposed by-law. A revised draft notification accordingly sentherewith..

Sd/ J.R.D.

Additional Secretary to Government.

U.H. to R.D.No.2792 dated 11-3-1949-

E.K.N.4/6/56

4C.

Legal Department.

A revised draft Order is sent herewith

Sd/ J.R.D.

Additional Secretary to Govt.

U.M. to M.D.,No.228,Confl.dated the 7th April 1949.

E.K.N.4/6/56

4C.

Revenue Department.

Bombay Castle, April 1949.

O R D E R

No. .- In exercise of the powers conferred by rule 48 of the Bombay Co-operative Socieites Rules,1927, and in modification of Government order in the Revenue Department, No.148/49, dated the 14th January 1949, in so far as it relates to the appointment of new Committee of the Bombay City Weavers Co-Operative Society Unlimited, Bombay, the Government of Bombay is pleased----

(1) to appoint the following two additional members on the said new committee:

(i) Mr.Badul Malik Ebrahim Fitwalla,
Fitwalla Building, Fitwalla Road,
Parel,Bombay.

(ii) Mr.Syed Shahabuddin Dasnavi,
Sabu Siddik Institute
Shepherd Road, Byculla,Bombay. and

(2) to direct that the said two new members shall hold office till the 13th January 1951.

By order of the
Governor of Bombay

Secretary to Government.

E.K.N.4/6/56

4C.

Legal Department.

A revised draft notification is sent herewith.

Sd/ J.R.D.

Additional Secretary to Government.

U.R. to R.D.,No.4757, dated the 30th April 1949.

E.K.N. 5/5/56

4C.

NOTIFICATION.

Revenue Department.

Bombay Castle, 1949.

No. 9367/39.- In pursuance of the powers conferred by sub-rule (2) of rule 8 of the Bombay Co-operative Societies Rules, 1927, the Government of Bombay is pleased to direct that the Registrar of Co-operative Societies, shall give his sanction under sub-rule (1) of the said rule 8 to the Vedchhi and Madhi Vibhag Co-operative Multipurpose Societies, District Surat, to incur liabilities in excess of the limit permissible under the said rule, 8 on the following conditions, namely:-

(i) the liabilities shall not exceed in total twenty times the total amount of the paid up share-capital accumulated reserve fund and building fund minues accumulated losses;

(ii) the amount involved in loans to members for current agricultural purposes together with the amount invested in thepurchase of agricultural and domestic requisite shall not exceed eight times the paid up share-capital and reserve fund minus accumulated losses.

(iii) the liabilities permitted to be incurred in excess of the limit permissibleunder rule 8(1) of the said Rules shall beutilised fully by the societies for promotion of activities pertaining to cottage and subsidiary industries;

(iv) the sanction given by the Registrar under sub-rule (1) of the said rule 8 shall remain in force for a period of two years from the date of the sanction.

By order of the Governor of Bombay,

Deputy Secretary to Government.

Legal Department.

The view taken by the Registrar of co-operative Societies is not correct. The Bombay High Court has held in Empieror v/s. Rayonagonda Patil 46 B.L.R. page 495, that where the powers under an anactment is susequently amended by embodying therein more powers, then the delegation does not operate to cover amdnement subsequent to such delegation. The distinction made by the Registrar between the notifications of delegation in respect of Assistant Registrars and the notification of delegation in respect of other Officers does not alter the legal position and discussed above. A fresh delegation is therefore necessary in the case of all Officers to enable them to exercise the powers contained in the new amendments.

2. A revised draft notification in place of the notification at page 79 ante is sent herewith.

3. The View taken by Revenue Department in paragraph 3 of its note at page 77 is correct.

Sd/ J.R.D

Additional Secretary to Government.

U.R. to R.D.No.4679, dated the 29th April, 1949.

E.K.N.5/6/56

40.

Revenue Department,

Bombay Castle, April 1949.

O R D E R

mbay Co-operative
ocieties Act,
925.

No. .-In exercise of the powers conferred by section 4 of the Bombay Co-operative Societies Act, 1925 (Bom.VII of 1925), the Government of Bombay is pleased to confer on the Assistant Registrars of Co.operative Socieites, the powers of a Registrar under the following sections of the said Act, namely:-

(i) Section 15A and 16A in respect of the mak class of Societies which the Assistant Registrars of Co-operative Socieites, are empowered to register under section 10 of the said Act under Government Notification, Revenue Department No.522/28, dated the 31st July, 1939.

(ii) section 46A.

By order of the Governor of Bombay,

Secretary to Government.

E.K:N.5/6/56

4C.

Legal Department.

Two revised draft notifications are sent herewith.

The amendments areporposed to two different notifications: one issued under clause (a) of sub-section (1) of section 33 of the Bombay Cooperative Socieites Act remitting the stamp duties payable in respect of certain instruments and theother issued under clause(b) remitting registration fees inrespect of instruments. It is therefore preferable to have two amending notifications.

Sd/ J.R.D.

Additional Secretary to Government.

U.R. to R.D.,No.6131, dated the 1st June 1949.

E.K.N.5/6/56

40.

Legal Department.

Two revised draft orders are sent herewith.

As the final report is not yet complete, it would not be advisable to refer to the inquiry under section 43 as proposed in the Revenue Department draft. Rule 48 of the Co-operative Societies Rules 1927 requires that the reasons for the order under that rule should be published. It is sufficient compliance with the rule to state in general terms that there is serious mismanagements in the affairs of the society.

Sd/ J.R.D.

Additional Secretary to Government.

U.R. to R.D.,No.350,Confl. Dated the 8th June 1949.

E.K.N. 5/6/56

4C.

Revenue Department,

Bombay Castle, June 1949.

ORDER.

No.799/49(a) :- Whereas the inquiry in the affairs of the Pratap Millhands Hutan Co-operative Credit and Provident Fund Society, Limited, Amalner, East Khandesh (hereinafter referred to as "the said society") disclosses serious mismanagement in the affairs of the said society;

And whereas the Government of Bombay is of opinion that an emergency exists which necessitates the making of the following Order;

Now, therefore, in exercise of the powers conferred by sub-rules (1) and (2) of rule 48 of the Bombay Co-operative Socieites Rules, 1927, the Government of Bombay is hereby pleased -

(1) to remove with effect on and from ~~1948~~ 1949, all the members of the present Committee of the said Society and to appoint in their place a new Committee of the persons specified below, and

(2) to direct that the members of the Committee so appointed shall hold office for a period of three years with effect on and from the aforesaid date.

By order of the Governor of Bombay,

Secretary to Government.

E.K.N.5/6/56
4C.

Legal Department.

A revised draft notification is sent herewith.

It appears that R.D. has issued a notification No.4793/48 dated the 19th May 1947 confering upon the Additional Registrar of Cooperative Societies all the powers of a Registrar under the Act. It is understood that such post was created in the past in lieu of the Joint Registrar's post and the I.C.S. Officer was appointed to hold it. No such post exists at present and the notification issued in that connection may be superseded now and may bereissued if and when such post is again created. That notification excludes the additional powers created by the Amending Act of 1948 and will not be of any use even if the post of the Additional Registrar is revived again.

Sd/ J.R.D.

Additional Secretary to Government.

U.R. to R.D.No.8901 dated 6th August 1949.

R.K.N. 5/6/56

4C.

O R D E R

Revenue Department.

Bombay Castle, 1949.

Bombay Co-operative Societies Act, 1925

Government Orders, Revenue Department-

(1) No.522/28(a), dated the 31st July 1939.

(2) No.522/28, dated the 6th November 1945.

(3) No.9981/39, dated the 26th January 1946.

(4) No.2492/45, dated the 9th August 1946.

(5) No.1457/39, dated the 29th April 1947.

(6) No.3150/45, dated the 29th April 1947.

(7) No.4793/45, dated the 19th May 1947.

No. .-In exercise of the powers conferred by section 4 of the Bombay Co-operative Societies Act, 1925(Bom.VII of 1925), and in supersession of Government Orders noted in the margin, the Government of Bombay ispleased to confer on the officers specified in column 1 of the Schedule hereto appended, the powers of a Registrar under the said Act, specified against them in column 2 of the said Schedule.

Schedule.

Officers. 1.	powers. 2.
1. Joint Registrar of Co-operative Societies.	All the powers of a Registrar under the Act provided that powers under section 64-A shall be exercisable only in respect of agricultural credit and non-credit societies and Urban credit and salary earners' societies.
2. Joint Registrar for Industrial Co-operatives and Village Industries.	All the powers of a Registrar under the Act except powers under section 64-A.
3. Divisional Deputy Registrars of Co-operative Societies.	
4. Chief Auditor and Financial Adviser, Co-operative Department.	

By order of the Governor of Bombay,

Secretary to Government.

Legal Department.

In place of the draft at p.17 ante, a revised draft notification issent herewith. Under section 64 R of the Bombay Co-operative Societies Act,1925, any class of farming societies can be exempted from any of theprovisions of Chapter XI. In a notification to be issued under section 64 R, it would not be appropriate to state what matters should be certified by the Registrar while approving a society for the purposes of obtaining the proposed exemption. The latter protion in the Department's draft has, there fore, been deleted. Suitable executive instructions may be issued to the Registrar so that he should satisfy himself that the necessary conditions are fulfilled before he approves any society for the purposes of theproposed exemption.

2. In place of thedraft atp.23 ante also, a revised draft notification is enclosed.

Sd/ J.R.D.

Additional Secretary to Government.

U.R. to Development Department,No.11972, dated the 27th October 1949.

K.N.S/6/56

4C.

NOTIFICATION.

Development Department,

Bombay Castle, October 1949.

The Bombay Co-operative Societies Act, 1925.

No.10384/45.- In exercise of the powers conferred by section 64 H of the Bombay Co-operative Societies Act, 1925 (Bom.XII of 1925), the Government of Bombay is pleased to exempt from the provisions of section 64-H to 64-O (both inclusive) of the said Act the farming societies of the Co-operative Irrigation type, approved by the Registrar of Co-operative Societies and Director of Agricultural Marketing an Rural Finance in this behalf.

By order of the Governor of Bombay,

Secretary to Government.

E.K.N.5/6/56

-4C.

Legal Department.

The view taken by the Registrar, Co-operative Societies, in para. 3 of his letter is not quite correct.

2. Under G.N.R.No.10055/28, dated the 22nd March 1939 the Government has remitted the stamp duty on those instruments relating to the business of co-operative societies which are chargeable under the Indian Stamp Act, 1899. The Schedule to the said notification, however specifies the class of instruments which are not exempt from stamp duties. As the instruments of pawn and pledge, if unattested are exempt from a stamp duty under Article 6 in Schedule I to the Indian Stamp Act the mere mention of such instruments in the Schedule to the above notification would not make them liable to a stamp duty under the Indian stamp Act. Apart from this legal position, instruments of pawn or pledge, if attested, are charageable with a stamp duty and Government does not desire them to be exempted. The question of exempting instruments which are not chargeable does not arise to all under sec.33(2)(a) of the Bombay Co-operative Societies Act,1925. Since the Schedule specifies the instruments which are not exempt from stamp duties, there is nothing wrong in including agreements of pawn or pledge in that Schedule. The word unattested would not necessarily govern the words "agreements of pawn or pledge" if any such agreements are otherwise exempted from a stamp duty under the Indian Stamp Act. No amendment of the above notification is therefor necessary.

3. As regards the amendment of G.N. R.D.No. 3648/45(a), dated the 26th July 1948 at p.35 ante, it xxx may be pointed out that the

agreements.....

agreements of pawn or pledge are permitted to be registered under section 18(d) of the Indian Registration Act, 1908 and it is necessary to specify them in the Schedule as the intention is that no exemption should be given to them under sec.33(2)(b) of the Bombay Co-operative Societies Act where they are optionally registered.

Sd/ J.R.D.

Additional Secretary to Government

U.R. to D.D.No.12646, dated 9th November 1949.

EE.N. 5/6/56

4C.

Legal Department.

A revised draft order is sent herewith.

2. Any Company or Concern in the shares or debentures of which the investment is to be permitted will have to be specifically mentioned. "Other utility concerns" will be vague and will notbe permissible.

Sd/ J. R. D.

Additional Secretary to Government.

D.R. to Development Department No.14715, dated the 19th December 1949.

E.K.N.5/6/56

40.

ORDer

Development Department,
Bombay Castle (Bombay No.1), December 1949.

Bombay Co-operative Societies Act, 1925

No. .- In exercise of the powers conferred by clause (e) of section 37 of the Bombay Co-operative Societies Act, 1925 (Bom.VII of 1925), the Government of Bombay is pleased to permit the Zoroastrian Co-operative Credit Bank Ltd., Fort, Bombay, to invest 20% of its surplus funds in the shares or debentures of the following concerns, namely:-

*(to be filled in by the Dev.Deptt.)

1. .....
2. .....
3. .....
4. .....

By order of the Governor of Bombay,

Secretary to Government.

E.K.N.5/6/56

4C.